

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

John Holloway #277261,

Plaintiff,

vs

South Carolina Department of
Corrections,

Defendant.

) IN THE COURT OF COMMON PLEAS
)
) FIFTH JUDICIAL CIRCUIT

) C/A No. 2013-CP-40-7077
)

)

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SC Court of Appeals

ORDER GRANTING

SUMMARY JUDGMENT TO

DEFENDANT SOUTH CAROLINA

DEPARTMENT OF CORRECTIONS

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This matter came before the Court on the Defendant South Carolina Department of Corrections' (hereinafter "SCDC") Motion to Dismiss on July 7, 2015 at the Richland County Courthouse. Present on behalf of SCDC was Benjamin H. Joyce, Esquire. Plaintiff John Holloway appeared *pro se*.

SCDC submitted a memorandum in support of Motion to Dismiss, which included an affidavit from SCDC Inmate Grievance Administrator, Michelle White. Also incorporated into SCDC's memorandum in support of Motion to Dismiss was an Order from the Administrative Law Court dismissing Plaintiff's appeal with prejudice as to his charges and convictions of Riot and Damage, Loss, Destruction, Defacing of Property. Also included were Plaintiff's grievances filed related to these convictions and his conviction of Refusing or Failing to Obey Orders. Counsel for SCDC moved pursuant to Rule 12(c), SCRCP, or in the alternative for summary judgment under Rule 56, SCRCP, in submitting the above-referenced items to the Court for consideration. Accordingly, the Court treats this motion as a Motion for Summary Judgment.

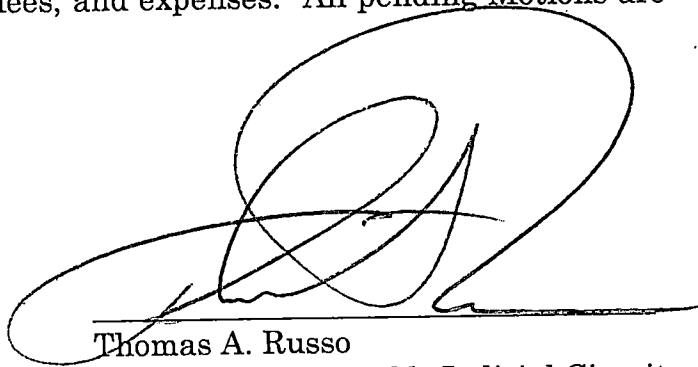
After considering arguments from both parties, reviewing respective written submissions, and SCDC's memorandum with the supporting affidavit and exhibits,

the Court grants SCDC's Motion for Summary Judgment on the grounds that Plaintiff has failed to exhaust his administrative remedies prior to filing this case.

There are no material issues of fact in dispute that would entitle Plaintiff to a judgment. Accordingly, the South Carolina Department of Corrections is entitled to judgment as a matter of law as the claims upon which Plaintiff bases his Complaint are based on his three disciplinary convictions of charges of (1) Riot, (2) Damage, Loss, Destruction, Defacing of Property, and (3) Refusing or Failing to Obey Orders, all of which are convictions in which Plaintiff did not properly exhaust his institutional and administrative remedies. Further, it appearing to the Court that the time period for Plaintiff to file grievances related to these three convictions has lapsed and that Plaintiff had already exceeded all time frames for filing grievances related to these issues prior to filing his Complaint, the Court grants SCDC's Motion for Summary Judgment and dismisses this case with prejudice.

THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that this case be, and the same is hereby, dismissed with prejudice and forever ended with each party bearing its own costs, fees, and expenses. All pending Motions are now considered moot.

IT IS SO ORDERED.

A large, stylized handwritten signature in black ink, appearing to read 'Thomas A. Russo', is written over a horizontal line.

Thomas A. Russo
Presiding Judge, Fifth Judicial Circuit

7/20, 2015
Florence, South Carolina